

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JAMES RUSSELL ILER,)	
)	
Plaintiff,)	Civil Case No. 08-21-KI
)	
vs.)	OPINION AND ORDER
)	
MITCHELL SOUTHWICK, private)	
capacity, fiduciary trustee, SCOTT W.)	
IMMOOS, private capacity, fiduciary)	
trustee, WALTER DILLMAN, accessory)	
contributor, JOHN DOE, I-XX, JANE)	
DOE, I-XX,)	
)	
Defendants.)	
)	

KING, Judge:

Plaintiff filed this action alleging a breach of fiduciary duty and constitutional violations under 42 U.S.C. § 1983. His claims arose over the seizure of his automobile. Plaintiff has two motions pending before the court.

Plaintiff filed a Motion to Acknowledge the Claim and Exercise of Constitutional Rights and to Require the Presiding Judge to Rule Upon this Motion, and for All Public Officers of this Court to Uphold the Said Rights (#18). This motion seeks several things, including to acknowledge that plaintiff is one of the Sovereignty and to rule as to whether the federal territorial plane or the Oregon de jure plane is the proper and true plane for application of any Law to which Iler is named. I am unable to discern what plaintiff asks me to do. Accordingly, I will deny the motion.

Plaintiff has also filed for summary judgment. He did not provide a separate evidentiary record but did file a declaration that verifies the facts in his Amended Petition.

Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. Fed. R. Civ. P. 56(c). The initial burden is on the moving party to point out the absence of any genuine issue of material fact. Once the initial burden is satisfied, the burden shifts to the opponent to demonstrate through the production of probative evidence that there remains an issue of fact to be tried. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). On a motion for summary judgment, the evidence is viewed in the light most favorable to the nonmoving party. Universal Health Services, Inc. v. Thompson, 363 F.3d 1013, 1019 (9th Cir. 2004).

After reviewing the Amended Petition and plaintiff's Narrative Brief in Support of Petition for Summary Judgment, I am not persuaded that plaintiff is entitled to judgment in his favor prior to trial. One problem is that I do not have a good understanding of what happened during the seizure of the automobile. Plaintiff also has not presented any legal argument which I can understand that explains what was unlawful about the seizure. I do note from plaintiff's

Narrative that he does not consider the Oregon Revised Statutes to be valid law. His briefing is not based on the law as set forth by the United States Court of Appeals for the Ninth Circuit or the United States Supreme Court. That is the law which I must follow, however. For these reasons, I deny plaintiff's motion for summary judgment.

CONCLUSION

Plaintiff's Motion for Summary Judgment on Entire Pleadings (#15) is denied. Plaintiff's Motion to Acknowledge the Claim and Exercise of Constitutional Rights and to Require the Presiding Judge to Rule Upon this Motion, and for All Public Officers of this Court to Uphold the Said Rights (#18) is denied.

IT IS SO ORDERED.

Dated this 2nd day of July, 2008.

/s/ Garr M. King
Garr M. King
United States District Judge